



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

HOUSE BILL NO. 395

WEDNESDAY, FEBRUARY 24, 2010

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE April 6, 2010
2:49pm.

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

AN ACT relating to the Workers' Compensation Funding Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 342.122 is amended to read as follows:

- 2 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose
3 of funding and prefunding the liabilities of the special fund, financing the
4 administration and operation of the Kentucky Workers' Compensation
5 Funding Commission, and financing the expenditures for all programs in the
6 Department of Labor, except the Division of Employment Standards,
7 Apprenticeship and Training and the Office of Labor-Management Relations
8 and Mediation, as reflected in the enacted budget of the Commonwealth and
9 enacted by the General Assembly, the funding commission shall impose a
10 special fund assessment rate of nine percent (9%) upon the amount of workers'
11 compensation premiums received on and after January 1, 1997, through
12 December 31, 1997, by every insurance carrier writing workers' compensation
13 insurance in the Commonwealth, by every self-insured group operating under
14 the provisions of KRS 342.350(4) and Chapter 304, and against the premium,
15 as defined in KRS 342.0011, of every employer carrying his or her own risk.
- 16 (b) The funding commission shall, for calendar year 1998 and thereafter, establish
17 for the special fund an assessment rate to be assessed against all premium
18 received during that calendar year which, when added to the coal severance
19 tax appropriated to the special fund in accordance with paragraph (c) of this
20 section, shall produce enough revenue to amortize on a level basis the
21 unfunded liability of the special fund as of June 30 preceding January 1 of
22 each year, for the period remaining until December 31, 2029[2018]. The
23 interest rate to be used in this calculation shall reflect the funding
24 commission's investment experience to date and the current investment
25 policies of the commission. This assessment shall be imposed upon the

1 amount of workers' compensation premiums received by every insurance
2 carrier writing workers' compensation insurance in the Commonwealth, by
3 every self-insured group operating under the provisions of KRS 342.350(4)
4 and Chapter 304, and against the premium, as defined in KRS 342.0011, of
5 every employer carrying his own risk. On or before October 1 of each year, the
6 commission shall notify each insurance carrier writing workers' compensation
7 insurance in the Commonwealth, every group of self-insured employers, and
8 each employer carrying his or her own risk, of the rates which shall become
9 effective on January 1 of each year, unless modified by the General Assembly.

10 (c) In addition to the assessment imposed in paragraph (a) or (b) of this
11 subsection, and notwithstanding and prior to the transfer of funds to the Local
12 Government Economic Assistance Program under KRS 42.450 to 42.495, the
13 Kentucky Department of Revenue shall credit nineteen million dollars
14 (\$19,000,000) in coal severance tax revenues levied under KRS 143.020 to
15 the benefit reserve fund within the Kentucky Workers' Compensation Funding
16 Commission each year beginning with fiscal year 1998 and all fiscal years
17 thereafter. The annual transfer of nineteen million dollars (\$19,000,000) shall
18 occur in four (4) equal quarterly payments. These transfers shall occur not
19 later than the last day of each quarter of each calendar year and shall consist of
20 four (4) equal payments of four million, seven hundred fifty thousand dollars
21 (\$4,750,000).

22 (d) All assessments imposed by this section shall be paid to the Kentucky
23 Workers' Compensation Funding Commission and shall be credited to the
24 benefit reserve fund within the Kentucky Workers' Compensation Funding
25 Commission.

26 (e) The assessments imposed in this chapter shall be in lieu of all other
27 assessments or taxes on workers' compensation premiums.

- 1 (2) These assessments shall be paid quarterly not later than the thirtieth day of the
2 month following the end of the quarter in which the premium is received. Receipt
3 shall be considered timely through actual physical receipt or by postmark of the
4 United States Postal Service. Employers carrying their own risk and employers
5 defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal
6 quarterly installments.
- 7 (3) The assessments imposed by this section may be collected by the insurance carrier
8 from his insured. However, the insurance carrier shall not collect from the employer
9 any amount exceeding the assessments imposed pursuant to this section. If the
10 insurance carrier collects the assessment from an insured, the assessment shall be
11 collected at the same time and in the same proportion as the premium is collected.
12 The assessment for an insurance policy or other evidence of coverage providing a
13 deductible may be collected in accordance with this chapter on a premium amount
14 that equates to the premium that would have applied without the deductible. Each
15 statement from an insurance carrier presented to an insured reflecting premium and
16 assessment amounts shall clearly identify and distinguish the amount to be paid for
17 premium and the amount to be paid for assessments. No insurance carrier shall
18 collect from an insured an amount in excess of the assessment percentages imposed
19 by this chapter. The assessment for an insurance policy or other evidence of
20 coverage providing a deductible may be collected in accordance with this chapter on
21 a premium amount that equates to the premium that would have applied without the
22 deductible. The percentages imposed by this chapter for an insurance policy issued
23 by an insurance company shall be those percentages in effect on the annual effective
24 date of the policy, regardless of the date that the premium is actually received by the
25 insurance company.
- 26 (4) A self-insured group may elect to report its premiums and to have its assessments
27 computed in the same manner as insurance companies. This election may not be

1 rescinded for at least ten (10) years, nor may this election be made a second time for
2 at least another ten (10) years, except that the board of directors of the funding
3 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
4 basis after formal petition has been made to the funding commission by a self-
5 insured group.

6 (5) The funding commission, as part of the collection and auditing of the special fund
7 assessments required by this section, shall annually require each insurance carrier
8 and each self-insured group to provide a list of employers which it has insured or
9 which are members and the amount collected from each employer. Additionally, the
10 funding commission shall require each entity paying a special fund assessment to
11 report the SIC code for each employer and the amount of premium collected from
12 each SIC code. An insurance carrier or self-insured group may require its insureds
13 or members to furnish the SIC code for each of their employees. However, the
14 failure of any employer to furnish said codes shall not relieve the insurance carrier
15 or self-insured group from the obligation to furnish same to the funding
16 commission. The Office of Employment and Training, Education and Workforce
17 Development Cabinet, is hereby directed to make available the SIC codes assigned
18 in its records to specific employers to aid in the reporting and recording of the
19 special fund assessment data.

20 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide
21 any information and submit any reports the Department of Revenue or the funding
22 commission may require to effectuate the provisions of this section. In addition, the
23 funding commission may enter reciprocal agreements with other governmental
24 agencies for the exchange of information necessary to effectuate the provisions of
25 this section.

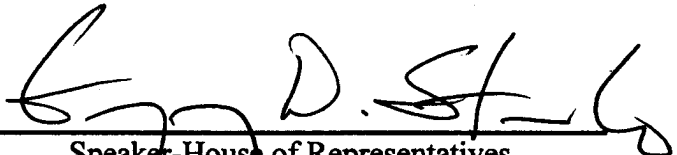
26 (7) The special fund shall be required to maintain a central claim registry of all claims
27 to which it is named a party, giving each such claim a unique claim number and

1 thereafter recording the status of each claim on a current basis. The registry shall be
2 established by January 26, 1988, for all claims on which payments were made since
3 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
4 claim files in the possession of the special fund.

5 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
6 is substituted therefor the special fund as set out by this section, and all moneys and
7 properties owned by the subsequent claim fund are transferred to the special fund.

8 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
9 the total amount of funds collected pursuant to the assessment rates adopted by the
10 funding commission shall not be limited to the provisions of this section.


11 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
12 342.122 shall forever remain applicable to premiums received on policies with
13 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
14 compensation insurance in the Commonwealth, by every self-insured group
15 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
16 premium, as defined in KRS 342.0011, of every employer carrying his own risk.



Speaker-House of Representatives



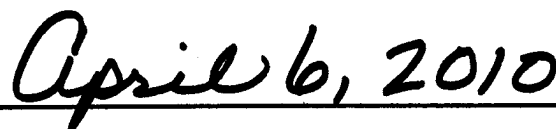
President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 

April 6, 2010